IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 17TH SEPTEMBER 2007 / 26TH BHADRA 1929

WP(C).No. 27137 of 2007(E)

PETITIONER:

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1. SEBASTIAN MICHAEL, S/O.MICHAEL,
   VADUTHALA KUNNEL, MARY GIRI P.O., KANAKAKUNNU,
   IDUKKI DISTRICT.

2. LEELAMMA BOY, W/O.BABY,
   MYLAPARAMBIL, MARY GIRI P.O.,
   KANAKAKKUNNU, IDUKKI DISTRICT.

3. MATHEW JOSEPH,
   AIMANATHIL, MARY GIRI P.O.,
   KANAKAKKUNNU, IDUKKI DISTRICT.

4. GEORGE PAUL,
   PEEKKUNNEL, MARY GIRI P.O.,
   KANAKAKKUNNU, IDUKKI DISTRICT.

5. SAJI JOSEPH,
   PUNNOLIKUNNEL, MARY GIRI P.O.,
   KANAKAKKUNNU, IDUKKI DISTRICT.

BY ADV. SRI.M.SASINDRAN

RESPONDENTS:

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1. THE DAIRY EXTENSION OFFICER,
   THADIYANPADU, IDUKKI.

2. THE DEPUTY DIRECTOR OF DAIRY DEVELOPMENT
MINI CIVIL STATION, THODUPUZHA.

3. THE DIRECTOR OF DAIRY DEVELOPMENT,
THIRUVANANTHAPURAM.

4. THE KANAKAKKUNNU KSHERROLPADAKA
SAHAKARANA SANGHAM LTD.I-158 (D) APCOS, NILGIRI,
IDUKKI DISTRICT.

BY GOVT. PLEADER SMT.ANU SIVARAMAN FOR R1 TO R3

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 27137 OF 2007 E

Dated this the 17th September, 2007

JUDGMENT

Petitioners are five Members of the Committee of the fourth respondent Society. Case of the petitioners, in brief, is as follows:

The strength of the Committee is nine and the petitioners being five, they constitute quorum for the meeting of the Committee. Out of the six Members remaining, one Shri O.K. Ramachandran has resigned from the membership of the Committee. There were only five out of the strength of nine remaining and the four posts are to be filled up by way of election. The term of the Committee would expire only February, 2009. As there are four vacancies, the last one due to the resignation of Shri O.K. Ramachandran, it was decided to conduct election to the whole Committee. Ext.P1 is the resolution dated 25.8.2007. According to the petitioners, there

is no irregularity to decide to conduct election. There is quorum. It is their case that there is attempt on the part of the second respondent to appoint an Administrator only because the petitioners have decided to conduct election early. It is contended that it is illegal and arbitrary. They seek a mandamus to appoint a Returning Officer to conduct election as per Ext.P1. They seek a direction to permit them to continue till February, 2009 or till a new Committee is formed. They also seek a declaration that the existing Committee is not liable to be removed only on the ground that they have adopted resolution to conduct election early.

2. I heard the learned counsel appearing for the parties. Learned Government Pleader would contend that the term will expire in February, 2009 and Ext.P1 resolution is taken in August, 2007. She would also submit that in fact an Administrative Committee had taken charge, but pursuant to the interim order, the petitioners are restored. Having heard the learned counsel appearing for the parties, the Writ Petition is

disposed of directing that action under Section 33 of the Kerala Co-operative Societies Act cannot be taken as facts stand as on today, as admittedly five Members who constitute the quorum are present, within the meaning of Section 28(5) of the Act. As regards the prayer to hold election pursuant to Ext.P1 is concerned, I would think that in view of the fact that the term is to expire in February, 2009, if the Committee takes a fresh resolution nearer in point of time as contemplated in Rule 35 of the Act, a decision will be taken thereon in accordance with law. I have not expressed any view regarding the validity of any decision which the Committee may take to hold bye-election, to fill up the vacancies caused.

The Writ Petition is disposed of as above.

K. M. JOSEPH, JUDGE

kbk.